

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

VICTOR BROWN,  
Plaintiff

v.

THOMAS JAMES, ET AL.,  
Defendants

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CIVIL NO.4:CV-03-0631

(Judge McClure)

**ORDER**

June 2, 2006

**Background**

Victor Brown, an inmate presently confined at the State Correctional Institution, Frackville, Pennsylvania, filed this pro se civil rights action under 42 U.S.C. § 1983. Presently pending is Plaintiff's sixth request for appointment of counsel (Record document no. 109).

Previously, by Orders dated May 9, 2003, March 30, 2005, August 24, 2005, and April 4, 2006 this Court denied similar motions for appointment of counsel. Since the entry of those prior Orders, Brown has continued to demonstrate a reasonable ability to litigate this action pro se. Furthermore,

Plaintiff's latest motion fails to set forth sufficient special circumstances or factors which would warrant the appointment of counsel. See Tabron v. Grace, 6 F.3d 147, 153, 155-157 (3d Cir. 1993). Consequently, for the reasons previously set forth by this Court, Brown's sixth request for appointment of counsel will be denied.

Plaintiff has made an incorporated request that he be allowed permission to initiate an appeal to the United States Court of Appeals for the Third Circuit. Our denial of his appoint of counsel as in forma pauperis plaintiff is an interlocutory decision not immediately appealable. Smith-Bey v. Petstock, 741 F.2d 22, 23-25 (3d Cir. 1984); see also Tabron, 6 F.3d at 154 n.3.

**IT IS HEREBY ORDERED THAT:**

1. Plaintiff's sixth request for appointment of counsel (Record document no. 109) is denied.
2. Plaintiff's incorporated request, that his motion (Record document no. 109) be construed as a notice of appeal to the United States Court of Appeal for the Third Circuit is denied because our decision to deny appointment of

counsel is interlocutory and there is no exceptional  
ground for appeal under 28 U.S.C. § 1292.

s/ James F. McClure, Jr.  
JAMES F. McCLURE, JR.  
United States District Judge